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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/663,340	09/15/2000	Kimimori Hamada	PM 271420	1868
7590	01/16/2004		EXAMINER	
Pillsbury Winthrop LLP 1600 Tysons Boulevard McLean, VA 22102			MONDT, JOHANNES P	
			ART UNIT	PAPER NUMBER
			2826	

DATE MAILED: 01/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application N .</b>	<b>Applicant(s)</b>	
	09/663,340	HAMADA, KIMIMORI	
	<b>Examiner</b>	<b>Art Unit</b>	
	Johannes P Mondt	2826	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 6/19/03, 8/25/03 and 10/17/03.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1,3-5,7-9,11-13,15-18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) 13,15-18 and 20 is/are withdrawn from consideration.
- 5) Claim(s) 1,3,5,7,9 and 11 is/are allowed.
- 6) Claim(s) \_\_\_\_\_ is/are rejected.
- 7) Claim(s) 4,8 and 12 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) Interview Summary (PTO-413) Paper No(s). 12/30/3 &
- 5) Notice of Informal Patent Application (PTO-152) 1/9/4
- 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Response filed 10/17/2003 to the Restriction Requirement mailed 10/01/2003, based on the claim set as contained in Supplementary Amendment filed 08/25/2003, being supplementary to the Amendment filed 06/19/2003, communicating the election of the Group I invention, claims 1, 3-5, 7-9, 11 and 12 is herewith acknowledged. Applicant's election of the said Group I invention in said Response is acknowledged to have been made with traverse. However, because Applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Consequently, the restriction requirement is herewith made FINAL.

### ***Response to Amendment***

Supplementary Amendment filed 08/25/2003 forms the basis of this office action. In said Supplementary Amendment Applicant amended claims 1 and 13 and cancelled claim 19. Claims 1, 3-5, 7-9, 11-13, 15-18 and 20 are in the application. Claims 13, 15-18 and 20 are withdrawn from consideration, with reference to aforementioned finality of the Restriction Requirement based on Applicant's Response to said Restriction Requirement. Therefore, claims 1, 3-5, 7-9, 11 and 12 are currently examined.

### ***Double Patenting***

2. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101, which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

3. ***Claim 4*** is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 3 (claims 3 and 4 both depend on claim 1 and have identical further limitations).

When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

4. ***Claim 8*** is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 7 (claims 7 and 8 have identical further limitations to independent claims (claim 3 and claim 4, respectively) that are duplicates of each other. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

5. **Claim 12** is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 11 (claims 11 and 12 have identical further limitations to independent claims (claim 3 and claim 4, respectively) that are duplicates of each other. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

#### ***Allowable Subject Matter***

6. **Claims 1, 3, 5, 7, 9 and 11** are allowed.

7. The following is an examiner's statement of reasons for allowance:

Closest Prior Art found is Mo et al (6,429,481 B1). However, in Mo et al the plurality of semiconductor regions 18 (p-type, i.e., first conductivity type) are the only regions qualifying as claimed plurality of third semiconductor regions of first conductivity type; however, while in the Specification of the application the plurality of third semiconductor regions are non-contiguous as evident from Figure 1, in Mo et al said third semiconductor regions 18 are contiguous because regions 16 periodically shrink to zero while underneath said regions 16 a contiguous p-type domain exists that reaches the (upper) of the body region.

***Conclusion***

8. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johannes P Mondt whose telephone number is: 703-306-0531 BEFORE February 4, 2004; and 571-272-1919 AFTER February 4, 2004. The examiner can normally be reached on 8:00 - 18:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J Flynn can be reached on 703-308-6601 BEFORE February 4, 2004, and on 571-272-1915 AFTER February 4, 2004. The fax phone number for the organization where this application or proceeding is assigned is 703-308-5399.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

JPM  
January 9, 2004

A handwritten signature in black ink, appearing to read "JPM".